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PATENT

ATTORNEY DOCKET NO.: JHU1120-11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lee and McPherron Art Unit: 1646
Application No.: 09/628,112 Examiner: J. Andres
Filed: July 27, 2000
Title: PROMYOSTATIN PEPTIDES AND METHODS OF USING SAME

Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL SHEET

Sir:

Transmitted herewith for the above-identified application please find:

1. Response to the Office Action dated July 12, 2001;
2. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, August 13, 2001, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.	
Aldon Griffis (Name of Person Mailing Paper)	
<i>Aldon Griffis</i> (Signature)	August 13, 2001 (Date)

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The Fee for this Response is calculated as follows:

For	Claims Remaining After Amendment	Highest Number Previously Paid For	Extra Claims	Large Entity Rate	Small Entity Rate	Calculations
Total Claims	33	33	0	x \$18	x \$09	\$.00
Independent Claims	6	6	0	x \$80	x \$40	\$.00
Multiple Claims				\$270	\$135	\$.00
Basic Filing Fee				\$710	\$355	\$.00
					TOTAL FEE	\$.00

No fee is deemed necessary in connection with the filing of this paper. However, if a fee is required, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: August 13, 2001

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RESPONSE TO THE RESTRICTION REQUIREMENT

Sir:

Responsive to the Restriction Requirement mailed July 12, 2001 (Paper No. 10), in connection with the above-identified patent application, consideration of the following remarks is respectfully requested.

Pursuant to the restriction requirement, Applicants elect the claims of Group I, claims 1 to 18, directed to peptide portions of promyostatin polypeptide.

It is alleged in the Office Action that the sequences set forth as SEQ ID NOS:2, 4, 6, 8, 10, 12, 14, 116, 18, 20, 27 and 29 represent polypeptides with distinct structural and functional characteristics (Office Action, page 4, last paragraph). As such, it is stated in the Office Action that, if either of Groups I or II is elected, that one of the species also be elected.

Although Applicants traverse the requirement to elect a species for the reasons set forth below, in order to be fully responsive to the Action, Applicants elect the species of murine promyostatin (SEQ ID NO:4). It is noted that claims 1, 2, 8 to 12, and 14 to 17 are readable on the elected species SEQ ID NO:4.

CERTIFICATION UNDER 37 CFR §1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, August 13, 2001, in an envelope addressed to:
Commissioner for Patents, Washington, D.C. 20231

Aldon Griffis
Aldon Griffis

August 13, 2001

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The requirement to elect a species is traversed generally with respect to all of the sequences as set forth above, and particularly respect to SEQ ID NOS: 2, 6, 10, 12, 14 and 16, which are mammalian promyostatin polypeptides. Applicants submit that, while the species as set forth are independent and patentably distinct, the various promyostatin polypeptides share a commonality of operation, function and effect (MPEP § 806.04(e)). Specifically, the promyostatin polypeptides share a common function in that they are cleaved to produce myostatin, which is involved in muscle growth and development (see, for example, page 10, lines 1-12; page 42, lines 16-19). Furthermore, the various promyostatin polypeptide sequences share substantial sequence identity as is evident by inspection of Figures 1 and 2 (see, also, page 10, lines 14-16).

Since the various promyostatin polypeptides have a commonality of operation, function and effect, and further share substantial sequence identity, it is submitted that an election of one species should not be required and that all of the promyostatin polypeptides should be examined together. Notwithstanding Applicants' position that all of the promyostatin polypeptides should be examined, it is submitted that, as an alternative, the Examiner consider that at least all of the mammalian promyostatin polypeptides, which, in addition to elected SEQ ID NO:4 include SEQ ID NOS: 2, 6, 10, 12, 14 and 16, should be examined together.

In summary, the claims of Group I, claims 1 to 18, are elected, and the species set forth as SEQ ID NO:4 is elected with traverse. With respect to the species election, it is respectfully requested that the Examiner reconsider this election requirement and rejoin and examine all of the promyostatin polypeptides together, or, in the alternative, at least rejoin and examine the promyostatin polypeptides set forth as SEQ ID NOS: 2, 6, 10, 12, 14 and 16 with elected SEQ ID NO:4.

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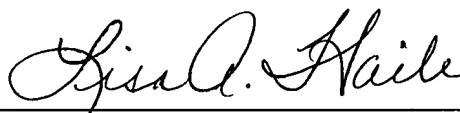
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No fee is deemed necessary in connection with the filing of this Response. However, if any fee is required, the Commissioner is authorized to charge any fee (or credit any overpayment) to Deposit Acct. No. 50-1355.

The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Respectfully submitted,

Dated: August 13, 2001



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